

### REMARKS

Claims 1, 5, 12-16 and 24 have been amended. Claims 1-24 are now pending.

Claims 1-24 were pending in the case prior to this amendment and were all rejected in the office action. Applicant addresses below each of the grounds of rejection applied to the claims.

#### Rejections Under 35 U.S.C. § 112

Claims 1-24 were rejected under 35 U.S.C. 112, first paragraph, for failing to comply with the written description and enablement requirements because of the recitation that the antenna of the implantable device reflects the RF signal "without loading the transmitter of the external device." The specification was also objected to for failing to provide antecedent basis for this limitation. Applicant understands the examiner's point that the external device could transmit some small amount of near-field RF signal to the implantable device antenna which would cause the external device transmitter to "see" the impedance of the implantable antenna and hence be loaded by it. However, as explained in the response to the previous office action, the system disclosed by applicant does not depend upon such loading in order for message data to be transmitted from the implantable device to the external device, which feature applicant believes is neither taught nor suggested by the prior art of record. Accordingly, applicant has amended claims 1 and 16 herein to recite that the external device extracts data from the reflected RF signal in a manner which does not depend upon the external device transmitter being loaded by the antenna of the implantable device. Applicant believes that these amendments overcome the examiner's rejections of the claims under section 112 and the objection to the specification.

Claims 1-15 and 24 were rejected under 35 U.S.C. 112, second paragraph, for being indefinite. Applicant has amended claims 1, 5, 12-15, and 24 herein in a manner believed to overcome the rejections.

#### Timely Traversal of Assertions of Things Known to One of Skill in the Art

Applicant generally traverses the assertion of things "known to one of skill in the art" as a form of Official Notice and requests a reference to support such assertions pursuant to MPEP 2144.03, or their withdrawal in the next official communication.

AMENDMENT AND RESPONSE

Serial Number: 09/828,460

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Title: Passive Telemetry System for Implantable Medical Device

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Dkt: 279.308US1

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (847-432-7302) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 11-26-03

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this day of November, 2003.

Name

Signature